



The Bengal, Agra and Assam Civil Courts Act, 1887

Act 12 of 1887

Keyword(s):

Consolidate and Amend Law relating to Civil Courts, District Judge, Additional Judge

Amendment appended: 29 of 2000

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Act XII of 1887

(The Bengal, Agra and Assam Civil Courts Act, 1887.)

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Act XII of 1887

(The Bengal, Agra and Assam Civil Courts Act, 1887.)¹

SHORT TITLE GIVEN	Ben. Act IV of 1906.
REPEALED IN PART	[Act VII of 1889. Act VIII of 1890. Act XII of 1891. Act XXVI of 1937. Ben. Act XIX of 1935. Ben. Act I of 1939. West Ben. Act LIX of 1950. West Ben. Act XVI of 1957. West Ben. Act XXVI of 1969. West Ben. Act XIII of 1977. West Ben. Act LXV of 1978. West Ben. Act LXVIII of 1978. West Ben. Act XIV of 1983. West Ben. Act X of 1988.]
AMENDED	[Act XVI of 1911. Act IV of 1914. Act XXXVIII of 1920.]
REPEALED IN PART AND AMENDED...	[(a) The Government of India (Adaptation of Indian Laws) Order, 1937. (b) The Adaptation of Laws Order, 1950.]

(11th March, 1887.)

An Act to consolidate and amend the law relating to Civil Courts in Bengal, [the North-Western Provinces and Assam.]

WHEREAS it is expedient to consolidate and amend the law relating to Civil Courts in Bengal, [*the North-Western Provinces and Assam*]; It is hereby enacted as follows :—

CHAPTER I

PRELIMINARY.

1. (1) This Act may be called the Bengal, ²[Agra] and Assam Civil Courts Act, 1887.

(2) It extends to the territories ³{which were on the 11th of March, 1887;} respectively administered by the Lieutenant-Governor of Bengal, [*the Lieutenant-Governor of the North-Western Provinces*]

Title, extent and commencement.

¹Legislative Papers.—For Statement of Objects and Reasons, see the Gazette of India, 1881, Pt. V, page 1455; for Preliminary Report of the Select Committee, see *ibid.*, 1886, Pt. V, page 957; for Final Report, see *ibid.*, 1887, Pt. V, page 55; and for proceedings in Council, see *ibid.*, 1881, Supplement, pages 1132, 1169, 1414 and 1423; *ibid.*, 1886, Supplement, page 1458; 1887, pt. VI, pages 31 and 33.

Local Extent.—This Act extends to the whole of the former Province of Bengal (among other territories), with the exception of the territories not subject to the ordinary civil jurisdiction of the High Court see s. 1(2).

As to the jurisdiction of the High Court in Darjeeling, see the Darjeeling (High Court's Jurisdiction) Act, 1867 (XIX of 1867).

²This word was substituted for the words "North-Western Provinces" by s. 2 of the Bengal, Agra and Assam Civil Courts (Amendment) Act, 1911 (XVI of 1911).

³These words were substituted for the words "for the time being" by Para. 3 and the 1st Sch. of the Government of India (Adaptation of Indian Laws) Order, 1937.

[Act XII

(Chapter I.—Preliminary.—Section 2.—Chapter II.—Constitution of Civil Courts.—Sections 3, 4.)

and the Chief Commissioner of Assam,] except such portions of those territories as for the time being are not subject to the ordinary civil jurisdiction of the High Courts

* * * * *; and

(3) It shall come into force on the first day of July, 1887.

Savings.

2. (1) [Repeal of Acts VI of 1871 and XIX of 1887.]—*Rep. by s. 2 and Schedule I of the Amending Act, 1891 (XII of 1891).*

(2) * * * All Courts constituted, appointments, nominations, rules and orders made, jurisdiction and powers conferred and lists published under the Bengal Civil Courts Act, 1871,³ or any enactment thereby repealed, or purporting expressly or impliedly to have been so constituted, made, conferred and published, shall be deemed to have been respectively constituted, made, conferred and published under this Act; and

VI of 1871.

(3) Any enactment or document referring to the Bengal Civil Courts Act, 1871,³ or to any enactment thereby repealed, shall be construed to refer to this Act or to the corresponding portion thereof.

CHAPTER II

CONSTITUTION OF CIVIL COURTS.

Classes of Courts.

3. There shall be the following classes of Civil Courts under this Act, namely :—

- (1) the Court of the District Judge;
- (2) the Court of the Additional Judge;
- (3) the Court of the ⁴[Assistant District Judge]; and
- (4) the Court of the *Munsif*.

Number of District Judges, ¹[Assistant District Judges] and *Munsifs*.

⁵4. The ⁶[State Government] may alter the number of the District Judges, ⁸[Assistant District Judges] and *Munsifs* now fixed.

¹The words "and except the Jhansi Division," which were repealed by the United Provinces Act, 1890 (XX of 1890), s. 9(1), are omitted.

²The word "But", which was repealed by the Amending Act, 1891 (XII of 1891), was omitted.

³Act VI of 1871 was repealed by s. 2(1) of the present Act.

⁴The words "Subordinate Judge" were substituted by the words "Assistant District Judge" by the Bengal, Agra and Assam Civil Courts (West Bengal Amendment) Act, 1983 (West Ben. Act XIV of 1983).

⁵Section 4 was substituted for the former section 4 by s. 2 and Schedule I of the Devolution Act, 1920 (XXXVIII of 1920).

⁶The words, "Provincial Government" were substituted for the words "Local Government" by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937, and thereafter the word "State" was substituted for the word "Provincial" by paragraph 4 (1) of the Adaptation of Laws Order, 1950.

⁷In the marginal note the words within square brackets were substituted for the words "Subordinate Judges" by the Bengal, Agra and Assam Civil Courts (West Bengal Amendment) Act, 1983 (West Ben. Act XIV of 1983).

⁸The words "Assistant District Judges" were substituted for the words "Subordinate Judges" by the Bengal, Agra and Assam Civil Courts (West Bengal Amendment) Act, 1983 (West Ben. Act XIV of 1983.)

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(Chapter II.—Constitution of Civil Courts.—Sections 5—10.)

5. [Number of Munsifs.]—Rep. by s. 2 and Schedule, Part I, of the Decentralization Act, 1914 (IV of 1914).

6. (1) Whenever the office of District Judge or ²[Assistant District Judge] is vacant by reason of the death, resignation or removal of the Judge or other cause, or whenever ³(an increase in the number of District or ⁴[Assistant District Judges] has been made under the provisions of section 4), the ⁵[State Government or, as the case may be, the High Court] may fill up the vacancy or appoint the Additional District Judges or ⁴[Assistant District Judges]* * *

Vacancies among District or ¹[Assistant District Judges.]

(2) Nothing in this section shall be construed to prevent a ⁷[State Government] from appointing a District Judge or ²[Assistant District Judge] to discharge, for such period as it thinks fit, in addition to the functions devolving on him as such District Judge or ²[Assistant District Judge], all or any of the functions of another District Judge or ²[Assistant District Judge], as the case may be.

7. [Vacancies among Munsifs.]—Omitted by para. 3 and the 1st Schedule of the Government of India (Adaptation of Indian Laws) Order, 1937.

8. (1) When the business pending before any District Judge requires the aid of Additional Judges for its speedy disposal, the ⁷[State Government] may, ⁸[having consulted] the High Court, ⁹* * * * * appoint such Additional Judges as may be requisite.

Additional Judges.

(2) Additional Judges so appointed shall discharge any of the functions of a District Judge which the District Judge may assign to them, and, in the discharge of those functions, they shall exercise the same powers as the District Judge.

9. Subject to the superintendence of the High Court, the District Judge shall have administrative control over all the Civil Courts under this Act within the local limits of his jurisdiction.

Administrative control of Courts.

10. (1) In the event of the death, resignation or removal of the District Judge, or of his being incapacitated by illness or otherwise for the performance of his duties, or of his absence from the place at which his Court is held, the Additional Judge, or, if an Additional

Temporary charge of District Court.

¹See foot-note 7 on page 414, ante.

²See foot-note 4 on page 414, ante.

³These words were substituted for the words "the Governor-General in Council has sanctioned an increase of the number of District Judges or Subordinate Judges" by s. 2 and Schedule 1 of the Decentralization Act, 1914 (IV of 1914).

⁴See foot-note 8 on page 414, ante.

⁵The words "Provincial Government or, as the case may be, the High Court" were substituted for the words "Local Government" by para. 3 and the 1st Sch. of the Government of India (Adaptation of Indian Laws) Order, 1937, and thereafter the word "State" was substituted for the word "Provincial" by paragraph 4(1) of the Adaptation of Laws Order, 1950.

⁶The words "as the case may be" were omitted by para. 3 and the 1st Sch. of the Government of India (Adaptation of Indian Laws) Order, 1937.

⁷See foot-note 6 on page 414, ante.

⁸These words were substituted for the words "upon the recommendation of" by para. 3 and the 1st Sch. of the Government of India (Adaptation of Indian Laws) Order, 1937.

⁹The words "and with the previous sanction of the Governor-General in Council," which were repealed by s. 3 of the Bengal, Agra and Assam Civil Courts (Amendment) Act, 1911 (XVI of 1911), are omitted.

(Chapter II.—Constitution of Civil Courts.—Sections 11—13.)

Judge is not present at that place, the senior ¹[Assistant District Judge] present thereat, shall, without relinquishing his ordinary duties, assume charge of the office of the District Judge, and shall continue in charge thereof until the office is resumed by the District Judge or assumed by an officer appointed thereto.

(2) While in charge of the office of the District Judge, the Additional Judge or ¹[Assistant District Judge], as the case may be, may, subject to any rules which the High Court may make in this behalf, exercise any of the powers of the District Judge.

Transfer of proceedings on vacation of office of ¹[Assistant District Judge.]

11. (1) In the event of the death, resignation or removal of an ¹[Assistant District Judge], or of his being incapacitated by illness or otherwise for the performance of his duties, or of his absence from the place at which his Court is held, the District Judge may transfer all or any of the proceedings pending in the Court of the ¹[Assistant District Judge] either to his own Court or to any Court under his administrative control competent to dispose of them.

(2) Proceedings transferred under sub-section (1) shall be disposed of as if they had been instituted in the Court to which they are so transferred :

Provided that the District Judge may re-transfer to the Court of ¹[Assistant District Judge], or his successor any proceedings transferred under sub-section (1) to his own or any other Court.

(3) For the purposes of proceedings which are not pending in the Court of the ¹[Assistant District Judge] on the occurrence of an event referred to in sub-section (1), and with respect to which that Court has exclusive jurisdiction, the District Judge may exercise all or any of the jurisdiction of that Court.

12. *[Temporary charge of office of Munsifs.]—Omitted by para. 3 and the 1st Schedule of the Government of India (Adaptation of Indian Laws) Order, 1937.*

Power to fix local limits of jurisdiction of Courts.

13. (1) The ³[State Government] may, by notification in the *Official Gazette*, fix and alter the local limits of the jurisdiction of any Civil Court under this Act.

(2) If the same local jurisdiction is assigned to two or more ⁴[Assistant District Judges] or to two or more *Munsifs*, the District Judge may assign to each of them such civil business cognizable by the ¹[Assistant District Judge] or *Munsifs*, as the case may be, as, subject to any general or special orders of the High Court, he thinks fit.

(3) When civil business arising in any local area is assigned by the District Judge under sub-section (2) to one of two or more ⁴[Assistant District Judges] or to one of two or more *Munsifs*, a decree or order passed by the ¹[Assistant District Judge] or *Munsif* shall not be invalid by reason only of the case in which it was made having arisen wholly or in part in a place beyond the local area if that place is within the local limits fixed by the ³[State Government] under sub-section (1).

¹See foot-note 4 on page 414, *ante*.

²The words "Assistant District Judge" were substituted for the words "Subordinate Judge" by the Bengal, Agra and Assam Civil Courts (West Bengal Amendment) Act, 1983 (West Ben. Act XIV of 1983.)

³See foot-note 6 on page 414, *ante*.

⁴See foot-note 8 on page 414, *ante*.

of 1887.]

(Chapter II.—Constitution of Civil Courts.—Sections 14—17.)

(4) A Judge of a Court of Small Causes appointed to be also an ¹[Assistant District Judge] or *Munsif* is an ¹[Assistant District Judge] or *Munsif*, as the case may be, within the meaning of this section.

(5) The present local limits of the jurisdiction of every Civil Court under this Act shall be deemed to have been fixed under this section.

14. (1) The ²[State Government] may, by notification in the *Official Gazette*, fix and alter the place or places at which any Civil Court under this Act is to be held.

Place of sitting of Courts.

(2) All places at which any such Courts are now held shall be deemed to have been fixed under this section.

15. (1) Subject to such orders as may be made^{3*} * ⁴(* * by the ²[State Government]^{3*} *) the High Court shall prepare a list of days to be observed in each year as closed holidays in the Civil Courts.

Vacations of Courts.

(2) The list shall be published in the ⁴[*Official Gazette*].

(3) A judicial act done by a Civil Court on a day specified in the list shall not be invalid by reason only of its having been done on that day.

16. Every Civil Court under this Act shall use a seal of such form and dimensions as are prescribed by the ²[State Government].

Seals of Courts.

17. (1) Where any Civil Court under this Act has from any cause ceased to have jurisdiction with respect to any case, any proceeding in relation to that case which, if that Court had not ceased to have jurisdiction, might have been had therein may be had in the Court to which the business of the former Court has been transferred.

Continuance of proceedings of Courts ceasing to have jurisdiction.

(2) Nothing in this section applies to cases for which provision is made ⁷[in sections 36, 37 and 114 of, and rule 1 of Order XLVII in Schedule I to the Code of Civil Procedure, 1908,] or in any other enactment for the time being in force.

Act V of 1908.

¹See foot-note 4 on page 414, *ante*.

²See foot-note 6 on page 414, *ante*.

³The words "by the Governor-General in Council, in the case of the High Court at Calcutta, and" were omitted by para. 3 and the 1st Sch. of the Government of India (Adaptation of Indian Laws) Order, 1937.

⁴The words "in the case of the High Court at Calcutta, and by the Local Government in other cases," had been inserted by s. 2 and Schedule 1 of the Devolution Act, 1920 (XXXVII of 1920).

⁵The words "in other cases" were omitted by para. 3 and the 1st Sch. of the Government of India (Adaptation of Indian Laws) Order, 1937.

⁶These words were substituted for the words "local Official Gazette" by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

⁷These words and figures were substituted for the words and figures "in section 623 or section 649 of the Code of Civil Procedure" by s. 3 of the Bengal, Agra and Assam Civil Courts (Bengal Amendment) Act, 1935 (Ben. Act XIX of 1935).

(Chapter III.—Ordinary Jurisdiction.—Sections 18—21.)

CHAPTER III

ORDINARY JURISDICTION.

Extent of original jurisdiction of District or ²[Assistant District Judge].

Extent of jurisdiction of *Munsifs*.

Appeals from District and Additional Judges.

Appeals from ⁷[Assistant District Judges] and *Munsifs*.

18. Save as otherwise provided by any enactment for the time being in force, the jurisdiction of a District Judge or ¹[Assistant District Judge] extends, subject to the provisions of section 15 of the Code of Civil Procedure, ³[1908,] to all original suits for the time being cognizable by Civil Courts.

19. (1) Save as aforesaid, and subject to the provisions of sub-section (2), the jurisdiction of a *Munsif* extends to all like suits of which the value does not exceed ⁴[fifteen thousand rupees].

⁵(2) The State Government may, on the recommendation of the High Court, direct, by notification in the *Official Gazette*, with respect to any *Munsif* named therein that his jurisdiction shall extend to all like suits of such value not exceeding ⁶[thirty thousand rupees] as may be specified in the notification :

Provided that the State Government may, by notification in the *Official Gazette*, delegate to the High Court its powers under this sub-section.

20. (1) Save as otherwise provided by any enactment for the time being in force, an appeal from a decree or order of a District Judge or Additional Judge shall lie to the High Court.

(2) An appeal shall not lie to the High Court from a decree or order of an Additional Judge in any case in which, if the decree or order had been made by the District Judge, an appeal would not lie to that Court.

21. (1) Save as aforesaid, an appeal from a decree or order of an ¹[Assistant District Judge] shall lie—

(a) to the District Judge where the value of the original suit in which or in any proceeding arising out of which the decree

¹See foot-note 4 on page 414, *ante*.

²See foot-note 2 on page 416, *ante*.

³These figures were inserted by s. 4 of the Bengal, Agra and Assam Civil Courts (Bengal Amendment) Act, 1935 (Ben. Act XIX of 1935).

⁴Originally, the words "two thousand rupees" were substituted for the words "one thousand rupees" by s. 3(i) of the Bengal, Agra and Assam Civil Courts (West Bengal Amendment) Act, 1950 (West Ben. Act LIX of 1950). Then, the words "five thousand rupees" were substituted for the words "two thousand rupees" by s. 3(a) of the Bengal, Agra and Assam Civil Courts (West Bengal Amendment) Act, 1969 (West Ben. Act XXVI of 1969). Thereafter, the words "seven thousand and five hundred rupees" were substituted for the words "five thousand rupees" by s. 3(a) of the Bengal, Agra and Assam Civil Courts (West Bengal Second Amendment) Act, 1978 (West Ben. Act LXVIII of 1978). Finally, the words "fifteen thousand rupees" were substituted for the words "seven thousand and five hundred rupees" by s. 3 (a) of the Bengal, Agra and Assam Civil Courts (West Bengal Amendment) Act, 1988 (West Ben. Act X of 1988).

⁵Substituted for the original sub-section (2) by s. 3 (ii) of the Bengal, Agra and Assam Civil Courts (West Bengal Amendment) Act, 1950 (West Ben. Act LIX of 1950).

⁶Originally, the words "seven thousand and five hundred rupees" were substituted for the words "five thousand rupees" by s. 3 (b) of the Bengal, Agra and Assam Civil Courts (West Bengal Amendment) Act, 1969 (West Ben. Act XXVI of 1969). Thereafter, the words "fifteen thousand rupees" were substituted for the words "seven thousand and five hundred rupees" by s. 3 (b) of the Bengal, Agra and Assam Civil Courts (West Bengal Second Amendment) Act, 1978 (West Ben. Act LXVIII of 1978). Finally, the words "thirty thousand rupees" were substituted for the words "fifteen thousand rupees" by s. 3(b) of the Bengal, Agra and Assam Civil Courts (West Bengal Amendment) Act, 1988 (West Ben. Act X of 1988).

⁷See foot-note 7 on page 414, *ante*.

of 1887.]

(Chapter IV.—Special Jurisdiction.—Sections 22, 23.)

or order was made did not exceed ¹[sixty thousand rupees], and

(b) to the High Court in any other case.

(2) Save as aforesaid, an appeal from a decree or order of a *Munsif* shall lie to the District Judge.

(3) Where the function of receiving any appeals which lie to the District Judge under sub-section (1) or sub-section (2) has been assigned to an Additional Judge, the appeals may be preferred to the Additional Judge.

(4) The High Court may, with the previous sanction of the ²[State Government], direct, by notification in the *Official Gazette*, that appeals lying to the District Judge under sub-section (2) from all or any of the decrees or orders of any *Munsif* shall be preferred to the Court of such ³[Assistant District Judge] as may be mentioned in the notification, and the appeals shall thereupon be preferred accordingly.

CHAPTER IV

SPECIAL JURISDICTION.

22. (1) A District Judge may transfer to any ³[Assistant District Judge] under his administrative control any appeals pending before him from the decrees or orders of *Munsifs*.

(2) The District Judge may withdraw any appeal so transferred, and either hear and dispose of it himself or transfer it to a Court under his administrative control competent to dispose of it.

(3) Appeals transferred under this section shall be disposed of subject to the rules applicable to like appeals when disposed of by the District Judge.

23. (1) The High Court may, by general or special order, authorize any ³[Assistant District Judge] or *Munsif* to take cognizance of, or any District Judge to transfer to an ³[Assistant District Judge] or *Munsif* under his administrative control, any of the proceedings next hereinafter mentioned or any class of those proceedings specified in the order.

(2) The proceedings referred to in sub-section (1) are the following, namely :—

(a) Proceedings under ⁴[the Bengal Wills and Intestacy Regulation, 1799];

* * * * *

Power to transfer to ⁴[Assistant District Judges] appeals from *Munsifs*.

Exercise by ⁴[Assistant District Judge] or *Munsif* of jurisdiction of District Court in certain proceedings.

Ben. Reg. V of 1799.

¹Originally, the words "ten thousand rupees" were substituted for the words "five thousand rupees" by s. 3 of the Bengal, Agra and Assam Civil Courts (West Bengal Amendment) Act, 1957 (West Ben. Act XVI of 1957). Thereafter, the words "fifteen thousand rupees" were substituted for the words "ten thousand rupees" by s. 4 of the Bengal, Agra and Assam Civil Courts (West Bengal Amendment) Act, 1969 (West Ben. Act XXVI of 1969). Then, the words "twenty-five thousand rupees" were substituted for the words "fifteen thousand rupees" by s. 4 of the Bengal, Agra and Assam Civil Courts (West Bengal Second Amendment) Act, 1978 (West Ben. Act LXVIII of 1978). Finally, the words "sixty thousand rupees" were substituted for the words "twenty-five thousand rupees" by s. 4 of the Bengal, Agra and Assam Civil Courts (West Bengal Amendment) Act, 1988 (West Ben. Act X of 1988).

²See foot-note 6 on page 414, *ante*.

³See foot-note 4 on page 414, *ante*.

⁴See foot-note 2 on page 414, *ante*.

⁵These words and figures were substituted for the original words by the Bengal Repealing and Amending Act, 1938 (Ben. Act I of 1939).

⁶Clauses (b) and (c) were repealed by s. 2 and the Schedule of the Guardians and Wards Act, 1890 (VIII of 1890), and the Succession Certificate Act, 1889 (VII of 1889), respectively, and are omitted.

(Chapter IV.—Special Jurisdiction.—Sections 24, 25.)

(d) proceedings under ¹[the Indian Succession Act, 1925,] which cannot be disposed of by District Delegates; and

XXXIX
of 1925.

(3) The District Judge may withdraw any such proceedings taken cognizance of by, or transferred to, an ²[Assistant District Judge] or *Munsif*, and may either himself dispose of them or transfer them to a Court under his administrative control competent to dispose of them.

24. (1) Proceedings taken cognizance of by, or transferred to, an ³[Assistant District Judge] or *Munsif*, as the case may be, under the last foregoing section shall be disposed of by him subject to the rules applicable to like proceedings when disposed of by the District Judge :

Provided that an appeal from an order of a *Munsif* in any such proceeding shall lie to the District Judge.

(2) An appeal from the order of the District Judge on the appeal from the order of a *Munsif* under this section shall lie to the High Court if a further appeal from the order of the District Judge is allowed by the law for the time being in force.

25. The ⁴[State Government] may, by notification in the *Official Gazette*, confer, within such local limits as it thinks fit, upon any ⁵[Assistant District Judge] or *Munsif* the jurisdiction of a Judge of a Court of Small Causes under the Provincial Small Cause Courts Act, 1887, for the trial of suits, cognizable by such Courts, up to such value not exceeding ⁶[seven thousand and five hundred rupees] in the case of an ⁷[Assistant District Judge] or ⁸[five thousand rupees] in the case of a *Munsif* as it thinks fit, and may withdraw any jurisdiction so conferred :

⁹Provided that the ¹⁰[State Government] may, by notification in the ¹¹[*Official Gazette*], delegate to the High Court its powers under this section.

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1887.

¹These words and figures were substituted for the words and figures "the Indian Succession Act, 1865, and the Probate and Administration Act, 1881" by s. 6(1) of the Bengal, Agra and Assam Civil Courts (Bengal Amendment) Act, 1935 (Ben. Act XIX of 1935).

²Clause (e) was omitted by s. 6(2), *ibid.*, for the original clause which reads as follows, namely :—

"(e) references by Collectors under section 322C of the Code of Civil Procedure."

³See foot-note 4 on page 414, *ante*.

⁴See foot-note 6 on page 414, *ante*.

⁵Originally, the words "seven hundred and fifty rupees" were substituted for the words "five hundred rupees" by s. 7 of the Bengal, Agra and Assam Civil Courts (Bengal Amendment) Act, 1935 (Ben. Act XIX of 1935). Then, the words "five thousand rupees" were substituted for the words "seven hundred and fifty rupees" by s. 3(1) of the Bengal, Agra and Assam Civil Courts (West Bengal Amendment) Act, 1977 (West Ben. Act XIII of 1977). Finally, the words "seven thousand and five hundred rupees" were substituted for the words "five thousand rupees" by s. 3(1) of the Bengal, Agra and Assam Civil Courts (West Bengal Amendment) Act, 1978 (West Ben. Act LXV of 1978).

⁶Originally, the words "three hundred rupees" were substituted for the words "two hundred and fifty rupees" by s. 7 of the Bengal, Agra and Assam Civil Courts (Bengal Amendment) Act, 1935 (Ben. Act XIX of 1935). Thereafter, the words "two thousand and five hundred rupees" were substituted for the words "three hundred rupees" by s. 3 (2) of the Bengal, Agra and Assam Civil Courts (West Bengal Amendment) Act, 1977 (West Ben. Act XIII of 1977). Finally, the words "five thousand rupees" were substituted for the words "two thousand and five hundred rupees" by s. 3(2) of the Bengal, Agra and Assam Civil Courts (West Bengal Amendment) Act, 1978 (West Ben. Act LXV of 1978).

⁷This proviso was added by s. 2 and Schedule, Part I, of the Decentralization Act, 1914 (IV of 1914).

⁸These words were substituted for the words "local Official Gazette" by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

⁹See foot-note 7 on page 414, *ante*.

Disposal
of proceedings
referred to
in last foregoing
section.Power to
invest
²[Assistant
District Judges]
and
Munsifs
with Small
Cause
Court
jurisdiction.

of 1887.]

(Chapter VII.—Supplemental Provisions.—Sections 26—36.)

26 to 35. (Chapters V and VI.)—Omitted by para. 3 and the 1st Sch. of the Government of India (Adaptation of Indian Laws) Order, 1937.

CHAPTER VII

SUPPLEMENTAL PROVISIONS.

36. (1) The [State Government] may invest with the powers of any Civil Court under this Act, by name or in virtue of office,—

Power to confer powers of Civil Courts on officers.

(a) any officer in the [Chota Nagpur, ²Sambalpur,] Jalpaiguri or Darjeeling district [or in any part of the territories administered by the Chief Commissioner of Assam, except the district of Sylhet,] or,

(b) after consultation with the High Court, any officer serving in any other part of the territories to which this Act extends and belonging to a class defined in this behalf by the [State Government] ³* * * * *

(2) Nothing in [sections 4, 5, 6, 8, 10 or 11] applies to any officer so invested, but all the other provisions of this Act shall, so far as those provisions can be made applicable, apply to him as if he were Judge of the Court with the powers of which he is invested.

(3) Where, in the territories mentioned in clause (a) of sub-section (1), the same local jurisdiction is assigned to two or more officers invested with the powers of a *Munsif*, the officer invested with the powers of a District Judge may, with the previous sanction of the [State Government], delegate his functions under sub-section (2) of section 13 to an officer invested with the powers of an ⁵[Assistant District Judge] or to one of the officers invested with the powers of a *Munsif*.

(4) Where the place at which the Court of an officer invested with powers under sub-section (1) is to be held has not been fixed under section 14, the Court may be held at any place within the local limits of its jurisdiction.

¹See foot-note 6 on page 414, ante.

²This word "Sambalpur" was inserted by s. 6 of the Sambalpur Civil Courts Act, 1906 (Ben. Act IV of 1906).

³The words "with the previous sanction of the Governor-General in Council" were omitted by s.2 and Schedule I of the Devolution Act, 1920 (XXXVIII of 1920).

⁴These words and figures were substituted for the words and figures "sections 4 to 8 (both inclusive), or sections 10 to 12 (both inclusive), or sections 27 to 35 (both inclusive)" by para. 3 and 1st Sch. of the Government of India (Adaptation of Indian Laws) Order, 1937, as amended by the Government of India (Adaptation of Indian Laws) Supplementary Order, 1937.

⁵See foot-note 4 on page 414, ante.

[Act XII of 1887.]

(Chapter VII.—Supplemental Provisions.—Sections 37—40.)

Certain decisions to be according to law.

37. (1) Where in any suit or other proceeding it is necessary for a Civil Court to decide any question regarding succession, inheritance, marriage or caste or any religious usage or institution, the Muhammadan law in cases where the parties are Muhammadans, and the Hindu law in cases where the parties are Hindus, shall form the rule of decision except in so far as such law has, by legislative enactment, been altered or abolished.

(2) In cases not provided for by sub-section (1) or by any other law for the time being in force, the Court shall act according to justice, equity and good conscience.

Judges not to try suits in which they are interested.

38. (1) The presiding officer of a Civil Court shall not try any suit or other proceeding to which he is a party or in which he is personally interested.

(2) The presiding officer of an appellate Civil Court under this Act shall not try an appeal against a decree or order passed by himself in another capacity.

(3) When any such suit, proceeding or appeal as is referred to in sub-section (1) or sub-section (2) comes before any such officer, the officer shall forthwith transmit the record of the case to the Court to which he is immediately subordinate, with a report of the circumstances attending the reference.

(4) The superior Court shall thereupon dispose of the case under ¹[section 24 of the Code of Civil Procedure, 1908.]

Act V of 1908.

(5) Nothing in this section shall be deemed to affect the extraordinary original civil jurisdiction of the High Court.

Subordination of Courts to District Courts.

39. For the purposes of the last foregoing section the presiding officer of a Court subject to the administrative control of the District Judge shall be deemed to be immediately subordinate to the Court of the District Judge, and, for the purposes of the Code of Civil Procedure, ²[1908], the Court of such an officer shall be deemed to be of a grade inferior to that of the Court of the District Judge.

Application of Act to State Courts of Small Causes.

40. (1) This section and sections 15, 32, 37, 38 and 39 apply to Courts of Small Causes constituted under the Provincial Small Cause Courts Act, 1887.

IX of 1887.

(2) Save as provided by that Act, the other sections of this Act do not apply to those Courts.

¹These words and figures were substituted for the words and figures "section 25 of the Code of Civil Procedure" by s. 8 of the Bengal, Agra and Assam Civil Courts (Bengal Amendment) Act, 1935 (Ben. Act XIX of 1935).

²See foot-note 3 on page 418, *ante*.

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GOVERNMENT OF WEST BENGAL

LAW DEPARTMENT

Legislative

West Bengal Act XXIX of 2000

THE BENGAL, AGRA AND ASSAM CIVIL COURTS
(WEST BENGAL AMENDMENT) ACT, 2000.

[Passed by the West Bengal Legislature.]

[Assent of the President of India was first published in the *Calcutta Gazette, Extraordinary*, of the 18th October, 2000.]

[18th October, 2000.]

An Act to amend the Bengal, Agra and Assam Civil Courts Act, 1887, in its application to West Bengal.

12 of 1887.

WHEREAS it is expedient to amend the Bengal, Agra and Assam Civil Courts Act, 1887, in its application to West Bengal, for the purposes and in the manner hereinafter appearing;

It is hereby enacted in the Fifty-first Year of the Republic of India, by the Legislature of West Bengal, as follows:—

1. (1) This Act may be called the Bengal, Agra and Assam Civil Courts (West Bengal Amendment) Act, 2000.

Short title and commencement.

(2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

2. The Bengal, Agra and Assam Civil Courts Act, 1887 (hereinafter referred to as the principal Act), shall, in its application to West Bengal, be amended for the purposes and in the manner hereinafter provided.

Application of the Act.

3. In section 19 of the principal Act,—

(a) in sub-section (1), for the words "fifteen thousand rupees", the words "thirty thousand rupees" shall be substituted;

(b) in sub-section (2), for the words "thirty thousand rupees", the words "sixty thousand rupees" shall be substituted.

Amendment of section 19 of Act 12 of 1887.

4. In clause (a) of sub-section (1) of section 21 of the principal Act, for the words "sixty thousand rupees", the words "one lakh and fifty thousand rupees" shall be substituted.

Amendment of section 21.

5. Nothing in this Act shall affect any suit, appeal or proceeding pending in any Civil Court or the High Court on the date of commencement of this Act and every such suit, appeal or proceeding shall be continued as if this Act had not been passed.

Saving of suits, appeals and proceedings pending in Court.